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IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

| | |
|-----------------|---------------------|
| In Re: | Case No.: 22-22814 |
| RACHELLE ROWAN, | Chapter 13 |
| Debtor | Hon. Joel T. Marker |

MOTION TO MODIFY PLAN AND REQUEST FOR ATTORNEY'S FEES AND COSTS

Rachelle Rowan (“Debtor”), by and through Counsel, Rulon T. Burton & Associates, P.C., and pursuant to 11 U.S.C. § 1329 hereby moves the Court to modify her Plan as follows:

Motion to Abate

Debtor sustained injuries in a car accident on November 26, 2022. While Debtor was in the hospital being treated for her injuries, the medical personnel discovered an aneurysm in Debtor’s heart. Debtor’s health complications caused Debtor to miss some work. The resulting medical bills and reduced income left Debtor with insufficient funds to make her Plan payments. Debtor is currently behind \$1,825 with her payments to the Trustee. Debtor does not have the funds to cure the delinquent \$1,825 and will not be able to make the payment due December 25, 2022. Debtor requests that the Court modify her Plan in order to abate \$2,800. Debtor will resume payments with the payment due January 25, 2023.

Motion to Incur Debt

The 2014 Honda Accord involved in the November 26, 2022 was totaled, leaving Debtor without a vehicle. Debtor needs a reliable vehicle to meet her daily transportation needs. Debtor has located a 2021 Nissan Rogue and seeks authorization from the Court to finance the purchase of the 2021 Nissan Rogue (or similar vehicle) with the following term and conditions*:

| | |
|------------------|-------------------------|
| Loan Amount: | Not more than \$30,000 |
| Interest Rate: | Not more than 30% |
| Monthly Payment: | Not more than \$590 |
| Term: | Not more than 72 months |

*Attached hereto as Exhibit A is a copy of a “Vehicle Buyer’s Order”.

Motion to Surrender 2014 Honda Accord and Reduce Plan Payment

Pursuant to the Trustee’s “Motion to Modify Plan to Accept Insurance Proceeds and Approve Distribution of Insurance Proceeds Arising from Totaled 2014 Honda Accord”, the Trustee anticipates receiving approximately \$14,612.67 from Debtor’s insurance company for the totaled Honda Accord (“Insurance Proceeds”). Credit Acceptance Corporation is the lienholder on the Honda Accord and filed Claim No. 2 listing the Accord as collateral for the loan. According to the 13Network website, there remains a secured balance of approximately \$16,139.21 on Claim No. 2.

Debtor needs to replace the 2014 Honda Accord with a reliable vehicle. Debtor cannot afford to continue to pay for the 2014 Honda Accord through her Plan and make a monthly car payment. Debtor requests that the Court modify her Plan in order to provide for the surrender of the 2014 Honda Accord. After the Trustee disburses the Insurance Proceeds to Credit Acceptance Corporation, the Trustee should make no further disbursements on the secured portion of Claim No. 2. Credit Acceptance should be allowed 180 days to file an amended unsecured claim.

Debtor believes that she could afford a Plan payment of \$700 and a car payment. With the surrender of the 2014 Honda Accord, a \$700 Plan payment should comply with 11 U.S.C. § 1322(d). Debtor requests that the Court modify her Plan in order to reduce the Plan payment to \$700 starting with the payment due January 25, 2023.

Counsel for the Debtor has rendered service of value to the estate and to the Debtor. Counsel requests fees and costs of not more than \$1,500 for the preparation and prosecution of the Debtor’s Motion to Modify Plan and Request for Attorney’s Fees and Costs.

WHEREFORE, Debtor respectfully requests that the Court:

1. Modify Debtor’s Plan in order to abate \$2,800.
2. Authorize Debtor to finance the purchase of a vehicle with the following terms:

| | |
|------------------|-------------------------|
| Loan Amount: | Not more than \$30,000 |
| Interest Rate: | Not more than 30% |
| Monthly Payment: | Not more than \$590 |
| Term: | Not more than 72 months |
3. Modify Debtor’ Plan in order to provide for the surrender of the 2014 Honda Accord to Credit Acceptance Corporation.
4. Direct the Trustee to cease disbursing on the secured portion of Claim No. 2 filed by Credit Acceptance Corporation after disbursing the Insurance Proceeds.
5. Allow Credit Acceptance Corporation 180 days to file an amended unsecured claim.
6. Modify Debtor’s Plan in order to reduce the Plan payment to \$700 starting with the payment due January 25, 2023.

7. Allow Counsel for Debtor attorney's fees and costs of not more than \$1,500.

Dated: December 16, 2022

/s/ _____
Justin O. Burton
Attorney for Debtor
Rulon T. Burton and Associates